Drive Change

Fair.
Just.
Effective.

Drug driving laws for
medicinal cannabis patients.

30 November 2024

To whom it may concern,

Harm Reduction Australia (HRA) is a national organisation for individuals committed to reducing the health, social and economic harms potentially associated with both drug use and drug policy approaches. HRA was formed in 2015 by a group of professionals concerned about drug policy in Australia.

Under the auspices of Harm Reduction Australia, Drive Change is a national law reform campaign established to amend the driving laws giving patients on prescribed medicinal cannabis the same rights as all other patients.

On behalf of Drive Change, I write to request that you immediately withdraw your report Driving High. It is utterly misleading. The title itself is misleading "Driving High - the need to detect drug drivers," as to be high means driving under the influence. We urgently ask for NRMA to review its recent report "Driving High - the need to detect drug drivers" to ensure that patients on medicinal cannabis are not discriminated against.

The Issue

Well over 98% of drug drivers are not charged with driving under the influence. They are charged with driving with a detectable level of drugs in their system. If there was a suspicion they were driving under the influence they would be charged with that offence.

We refer to page nine of the report: "Drug driving has been the second leading cause of fatalities in NSW surpassing drink driving, fatigue and non-seatbelt use." Illicit drugs were present in the bodily fluids of 79 of those who lost their lives in road trauma in NSW in 2023. That does not mean that drug driving caused a single one of those deaths.

First, there is not a single root cause analysis, coronial finding or even an investigation that points to any one of those deaths being "caused" by the presence of illicit drugs in the driver's system. To claim that there is a causal relationship is utterly false.

Second, there is no evidence that there was, in any of those deaths, a quantum of illicit drugs in the system of the deceased that would lead to affectation. The samples are largely from post mortem blood, and, for example, the cutoff limits for cannabis are 2 nanograms. It is important to note that such low

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levels of cannabis (THC) does not affect someone's driving as there are nothing more than residual quantities.

Third, there is no evidence that the deceased were the drivers at fault in the incident that led to their death. Some would have been stationary, some the victim of a driver on the wrong side of the road, and some suicide by driving. None of these permit the conclusion of causation. Many of the drivers will have had their illicit drug underlying detection overwhelmed by their alcohol use or other forms of illegal activity such as police pursuit or driving dangerously.

Fifth, your conclusion does not take into account the extent of illicit drug use in the community. For example, given that the key age group in road trauma fatality is 18 to 25 year old males, and that illicit drug use is rife in that group, and that THC remains in the system to be detected at minute levels for weeks (or in the case of hair follicles, months), then it may be that detectable levels are over represented in those who are killed in motor vehicle collisions, or it may be that they are underrepresented. Research is needed.

However, the conclusion that illicit drugs caused these deaths is premature and misguided. Research shows that around 30% of those aged 18 to 24 have recently used an illicit drug, with cannabis use by far the most common.

Finally, and limited to THC medicinal patients who have a prescription, there is no evidence that any single one of these fatalities was using cannabis in accordance with their prescription. This is unsurprising, but belies your conclusions.

We believe that balanced and robust research would have included the following: there are over 1 million scripts for cannabis in Australia thus criminalising a significant proportion of the population unnecessarily; the only state with a decreasing road toll is Tasmania, suggesting that their regime is, at the very least, not a risk factor increasing the road toll and the ACT and NT does not do any random roadside testing and their road toll is likely not ill- affected by this policy decision.

Australia is the only country in the world with random roadside testing for drug driving and does more such tests than the rest of the world combined.

There is no sound evidence that random roadside drug testing has reduced the road toll at all in NSW or anywhere in the world. There is clear and abundant evidence that seatbelts, airbags and speeding reforms had immediate impact.

The absence of such evidence suggests that this testing does not have a positive impact. The roadside drug testing in NSW is conducted by NSW police, but is funded by road safety dollars on a per-test model. Proven safety measures are denied funding as a result. Police time is diverted to an unproven model.

Once again, we ask for the report to be reviewed and withdrawn; and would welcome the opportunity to discuss these matters raised with you.

Kindest,

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